

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 192 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy
of the judgement?

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

2 to 5: No

COMMISSIONER OF INCOME-TAX

Versus

LALLUBHAI G MEHTA CHARITABLE TRUST

Appearance:

MR PRANAV G. DESAI with MR MANISH R BHATT for Petitioner

MR MJ SHAH with MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.R.DAVE

Date of decision: 01/04/99

ORAL JUDGEMENT (per J.N. Bhatt, J.)

At the instance of the Commissioner of
Income-tax, the Income Tax Appellate Tribunal, Ahmedabad
Bench 'B', has referred the following questions of law,
for our opinion, u/s 256(1) of the Income-tax Act, 1961.

"1. Whether, on the facts and in the circumstances of
the case, the Appellate Tribunal was right in law
in holding that the provisions of Section
13(2)(h) read with Section 13(3) of the Act were

not applicable to the facts of the case?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the capital of concern referred to under sec. 13(4) of the Act include the borrowed moneys employed as capital in the concern?

3. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the income of the School run by the Trust was exempt under Section 10(22) of the Act?"

2. During the course of hearing, the learned counsel for the parties, jointly, drew our attention to a decision of this Court rendered in C.I.T. v. Lallubhai Gordhandas Mehta Charitable Trust, 207 ITR 104. It was also a case of the same assessee. After having gone through the said decision, question Nos. 1 and 2 are covered by the said decision and, therefore, are required to be decided accordingly, whereas, question No.3 stands concluded and covered by the decision of this Court in Tax Reference No. 50/81 decided on 29.10.93 in the case of same assessee.

3. In the result, all the 3 questions are required to be answered in negative, against the revenue and in favour of the assessee. Accordingly, the aforesaid 3 questions are answered in negative, against the revenue and in favour of the assessee.

The reference, therefore, stands disposed of accordingly without any order of costs.
